

February 19, 2021

Dear Probation Oversight Commissioners and Chief Gonzales:

The organizations Arts for Healing and Justice Network, the ACLU Foundation of Southern California, Children's Defense Fund-CA, Loyola Law School's Youth Justice Education Clinic, Public Counsel, Social Justice Learning Institute, and the National Center for Youth Law respectfully submit the following public comment regarding agenda item 3 on February 22, 2021.

At the onset of COVID-19 in March 2020, a coalition of advocates, including lawyers representing currently detained youth, community-based providers of arts and education programs in juvenile facilities, and education legal/policy advocates, came together to monitor students' access to education in juvenile halls, camps and county community schools under the jurisdiction of Los Angeles County Office of Education ("LACOE"). Despite concerns communicated to LACOE staff and leadership through numerous coalition letters, public comment, and meetings, troubling issues have persisted. Meaningful information gathering and reforms are still needed to address issues related to students' school attendance, special education services, and learning loss and mitigation strategies. We urge the Probation Oversight Commission ("Commission") to prioritize improving the quality of, and access to, education for students under probation custody and to finally break the long-standing cycle of harm for LA County's most marginalized and under-resourced young people.

**I. Students in juvenile court and county community schools have experienced long-standing educational neglect.**

For decades prior to the pandemic, many young people and families impacted by LA County's juvenile halls, camps, and community schools have been denied appropriate educational services and support due to poor coordination between LACOE and Probation. This prompted the Office of the Attorney General ("OAG") to investigate the violations of students' education rights in juvenile halls, which resulted in a settlement last month. The settlement documented that LACOE and the County failed to: (1) provide youth with legally required educational minutes; (2) timely enroll youth in school; and (3) work collaboratively to support a youth's transition from juvenile hall.

The settlement only affirmed the numerous and troubling issues that advocates have been reporting for years. For example, LACOE's juvenile court school students are consistently suspended more often than students across Los Angeles County and California. In contrast to the countywide suspension rate of 2.1% and the statewide suspension rate of 3.6%, LACOE's suspension rate is 22%.<sup>1</sup> During 2018-19, LACOE issued 715 suspensions at one juvenile court

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<sup>1</sup> California Department of Education (2020). 2018-19 Suspension Rate, Los Angeles County Office of Education Report (19-10199), Disaggregated by School. Retrieved from <https://dq.cde.ca.gov/dataquest/dqCensus/DisSuspRateLevels.aspx?year=2018-19&aggllevel=District&cds=1910199>.

school, where the total number of students enrolled was only 229.<sup>2</sup> LACOE's unusually high suspension rates, particularly for students of color, are an outlier even amongst other county offices of education ("COE") across California. The Center for Civil Rights Remedies at the UCLA Civil Rights Project found that "of the five COE districts with the most days of lost instruction due to suspension, the Los Angeles COE had the highest rate for Black students: a total of 280 days of instruction were lost for every 100 Black students."<sup>3</sup>

In addition to LACOE's long-standing issues in school discipline and racial disparities, COVID-19 has added another layer of challenges for students to access education. LACOE and Probation must continue to work together to improve students' access to high quality virtual education and reach 100% virtual instruction participation. LACOE's last reported virtual education participation rate for juvenile court school students was 73% for the week of December 7, 2020 and 80% for the week of December 14, 2020.<sup>4</sup> There has been no public reporting on the status of virtual instruction participation since then.

Beyond the substantive conditions, it is impossible to determine the full scope of the problem because LACOE is opaque and fails to report data sufficiently. By way of example, LACOE currently only tracks the number of IEP meetings held but fails to capture how many students are receiving their IEP services. Instead, LACOE should track and report the number and percentage of students with disabilities per site receiving all special education and related services required by their Individualized Education Programs, and the number and percentage of students who have been assessed, or are in the process of assessment, to determine appropriate special education and related services. Relatedly, the public also lacks access to any plan by LACOE and Probation to prepare for the reopening of schools that includes administering vaccinations for Probation staff, LACOE staff, and students.

## **II. Probation and LACOE are jointly responsible for providing education.**

We urge the Probation Oversight Committee to take a proactive approach to assessing and reforming the education in the juvenile halls, camps and county community schools because it is clear that Probation has a significant role to play in the LACOE schools -- specifically the juvenile court schools. The California Board of State and Community Corrections sets forth the minimum standards for juvenile facilities under California Code Regulations Title 15 § 1370(a):

- The County Board of Education shall provide for the administration and operation of juvenile court schools *in conjunction with the Chief Probation Officer*.

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<sup>2</sup> Camp Afflerbaugh-Paige: suspension rate of 69.4%

<sup>3</sup> See Losen, D.J. and Martinez, P., "Is California Doing Enough to Close the School Discipline Gap?" (June 22, 2020), p. 28, available at [https://www.civilrightsproject.ucla.edu/research/k-12-education/school-discipline/is-california-doing-enough-to-close-the-school-discipline-gap/Final\\_CA\\_Report\\_06\\_29\\_2020-revised-for-post.pdf](https://www.civilrightsproject.ucla.edu/research/k-12-education/school-discipline/is-california-doing-enough-to-close-the-school-discipline-gap/Final_CA_Report_06_29_2020-revised-for-post.pdf)

<sup>4</sup> <https://www.lacoe.edu/LinkClick.aspx?fileticket=pZ2sw5nTw2U%3d&tabid=1109&portalid=0&mid=2534>

- School administrators and facility administrators are responsible for developing and implementing written policy to ensure communication and coordination between educators and probation staff.
- Culturally responsive and trauma-informed approaches should be applied when providing instruction.
- Education staff should collaborate with the facility administrator to use technology to facilitate learning and ensure safe technology practices.
- *The facility administrator shall request an annual review of each required element of the program by the Superintendent of Schools, and a report or review checklist on compliance, deficiencies, and corrective action needed to achieve compliance with this section.*
- The Superintendent of Schools shall conduct this review in conjunction with a qualified outside agency or individual.
- Upon receipt of the review, the *facility administrator* or designee shall review each item with the Superintendent of Schools and *shall take whatever corrective action is necessary to address each deficiency and to fully protect the educational interests of all youth in the facility.*

### **III. The Commission should take immediate steps to monitor education in LACOE schools during the pandemic and beyond.**

While the OAG settlement includes several promising courses of action -- for example requiring monitoring, data collection, and compensatory services -- the settlement excludes students in LACOE's juvenile camps or county community schools. Furthermore, COVID-19 or virtual instruction-related issues that are most relevant to current students were explicitly excluded from the scope of the settlement. Accordingly, we urge the Commission to supplement the settlement and provide independent oversight over the juvenile court and community schools. Specifically, we recommend:

1. The Commission will be receiving certain updates and reports as part of the settlement agreement. We urge the Commission to agendize these reports for discussion and public comment, and request identical data and metrics, where applicable, from LACOE's juvenile camp and county community schools.
2. The Commission should also review and improve LACOE and Probation's joint policies. Under California Education Code section 48646, the California Legislature encourages each county superintendent of schools or governing board of a school district and the county chief probation officer to enter into a memorandum of understanding to support a collaborative process for meeting the needs of wards of the court who are receiving education in juvenile court schools. This can include processes for communication, decision making, mutually established goals, and conflict resolution - and a clear delineation of responsibilities among the educational and residential service providers.
3. The Commission should request and review data from all LACOE school sites on access to distance learning and hybrid/in-person instruction during COVID-19. The Commission should also review the approved LACOE Learning Continuity and Attendance Plan from

Fall 2020 and request and review information about programs and strategies to identify and mitigate learning loss that LACOE outlines in the Plan. We urge the Commission to agendaize all of these pandemic-related education reports for discussion and public comment.

The undersigned organizations are grateful that the Probation Oversight Commission is considering education to be a priority and look forward to collaborating to ensure that all students in the County's juvenile halls, camps, and county community schools receive the education and services they deserve and to which they are entitled. Please reach out to Vivian Wong at [vivian.wong@lls.edu](mailto:vivian.wong@lls.edu) and Betty Fang at [bfang@childrensdefense.org](mailto:bfang@childrensdefense.org) to discuss these issues further.

Sincerely,

Arts for Healing and Justice Network  
ACLU Foundation of Southern California  
Children's Defense Fund-CA  
Public Counsel  
Social Justice Learning Institute  
National Center for Youth Law  
Youth Justice Education Clinic, Loyola Law School